

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LARRY DAVID SMITH,

Plaintiff,

v.

BRIAN MADERY, et al.,

Defendants.

Case No. 23-cv-12703

Honorable Robert J. White  
Magistrate Judge Patricia T. Morris

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**ORDER ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION, GRANTING LIEUTENANT  
JOHNSON'S MOTION FOR SUMMARY JUDGMENT, AND GRANTING  
IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR  
LEAVE TO FILE A SECOND SUPPLEMENTAL COMPLAINT**

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Larry Smith commenced this 42 U.S.C. § 1983 action against several Michigan Department of Corrections employees for violating, among other provisions, the First and Fourteenth Amendments to the United States Constitution. (ECF No. 1, PageID.18; ECF No. 8). The amended complaint alleges, among other things, interference with his legal and regular mail, possible retaliation, his disciplinary proceedings, and the lack of response to his grievances.

Before the Court is Magistrate Judge Patricia T. Morris's July 22, 2025 report and recommendation. (ECF No. 48). The report recommends that the Court (1) grant Lieutenant Timothy Johnson's motion for summary judgment on the basis of

exhaustion, and (2) grant in part and deny in part Smith's motion for leave to file a second supplemental complaint. (ECF Nos. 32, 43). None of the parties objected to the report and recommendation pursuant to Fed. R. Civ. P. 72(b)(2).

The Court had an opportunity to fully review the matter and believes that the magistrate judge reached the correct conclusions for the appropriate reasons. Accordingly,

IT IS ORDERED that the magistrate judge's July 22, 2025 report and recommendation (ECF No. 48) is hereby accepted and adopted.

IT IS FURTHER ORDERED that Lieutenant Johnson's motion for summary judgment on the basis of exhaustion (ECF No. 32) is granted.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to terminate Lieutenant Johnson from the docket as a party to this action.

IT IS FURTHER ORDERED that Smith's motion for leave to file a second supplemental complaint (ECF No. 43) is granted in part and denied in part. The motion is granted insofar as Smith seeks to allege additional instances of delays in

receiving prison mail. The motion is denied insofar as Smith seeks to add “N. Barnall” as a defendant to his First Amendment retaliation claim (Count One).

Dated: August 11, 2025

s/ Robert J. White

Robert J. White

United States District Judge